

Juvenile Restitution Orders – Quick Reference Sheet

RESTITUTION ORDERS

It is the intent of the Legislature that a victim of conduct for which a minor is found to be a person described in Section 602 who incurs any economic loss as a result of the minor's conduct shall receive restitution directly from that minor. **W&I §730.6(a)(1)** The court SHALL order full restitution unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. **W&I §730.6(h)**

INVALIDITY OF SENTENCE

A sentence is invalid if the court fails to address restitution.
People v. Rowland (1997) 51 Cal.App.4th 1745, 1751

WHO CAN RECEIVE RESTITUTION

- ✓ The victim - the object of a crime **People v Birkett (1999) 21 Cal.4th 226**
- ✓ Immediate surviving family of the actual victim **W&I §730.6(j)**
- ✓ Restitution Fund/Victim Compensation and Government Claims Board **W&I §730.6(i)**
- ✓ Insurance Companies – only if they are the direct victim
People v Birkett (1999) 21 Cal.4th 226
- ✓ Corporations, partnerships, government, legal or commercial entities that are direct victims **W&I §730.6(k)**

Restitution shall be to fully reimburse the victim(s) for all determined economic losses including all of the following:

Full or partial payment for the value of stolen or damaged property; medical expenses; wage or profits loss due to injury, caring for a minor victim, time spent as a witness or in assisting the police or prosecution by the victim, or if the victim is a minor, the minor's parents or guardians. **W&I §730.6(h)(1)-(h)(4)**

The term "economic losses" is entitled to an expansive interpretation and a victim's right to restitution is to be broadly and liberally construed.

In re Johnny M. (2000) 100 Cal.App.4th 1128,1132

CIVIL JUDGMENT

A restitution order is enforceable in the same manner as a civil judgment.
W&I §730.6(i) and PC §1214(b)

SETTING THE AMOUNT

The court may use any rational method of fixing the amount of restitution, provided it is reasonably calculated to make the victim whole, and provided it is consistent with the purpose of rehabilitation.

In re Brittany L. (2002) 99 Cal.App.4th 1381

AMOUNT IS DETERMINED BY THE COURT

The amount of restitution is for the court to decide unless the minor consents to the delegation of this function to the probation officer.

In re Joshua R. (1992) 6 Cal.App.4th 1252

BURDEN OF PROOF

The defendant has the burden of proof to show that the restitution recommendations in the probation report or the victim's estimates are inaccurate. The standard of proof for determining the amount of restitution to be ordered is "preponderance of the evidence."

People v. Baumann (1985) 176 Cal.App.3d 67, 80

REIMBURSEMENT FROM INSURANCE OR THIRD PARTIES

The court is not to consider whether the victim has, or will be reimbursed from third parties or insurance, in ordering restitution, since the statute provides that the victim is entitled to be "fully reimbursed" for the amount of the loss. **In re Brittany L., supra, at 1381**

JOINT LIABILITY OF CO-OFFENDERS

When feasible, the court shall identify any co-offenders who are jointly and severally liable for victim restitution. **W&I §730.6(h)(4)**

The juvenile court is vested with discretion to apportion restitution in a manner that will effectuate the legislative objectives of making the victim whole and rehabilitating the minor.
In re S.S. (1995) 37 Cal.App.4th 543

AMOUNT UNKNOWN AT THE TIME OF SENTENCING

If the amount of loss cannot be ascertained at the time of sentencing, the amount shall be determined during the term of the commitment or probation. **W&I §730.6(h)**

Check List

Restitution fines

- ☐ Misdemeanor not to exceed \$100
- ☐ Felony \$100 - \$1,000

Restitution Orders

- ☐ Identify each victim and the amount of restitution ordered for each victim
- ☐ Amount ordered to the Victim Compensation and Government Claims Board
- ☐ Amount each co-offender is to pay
- ☐ Amount "**To Be Determined**" (If amount cannot be determined – set review date)
- ☐ For a minor not committed to CYA, set date for annual review of restitution (**W&I §730.8**)
- ☐ Prepare a CR-110 for each victim and the Board
- ☐ Send a copy of the completed CR-110 Form or Minute Order to the Board, if the restitution is in favor of the Board